



[Docket No. FR-7070-N-29]

**30-Day Notice of Proposed Information Collection: Operating Fund Energy Incentives: Energy Performance Contracting Program, Rate Reduction Incentive, OMB Control Number 2577-New**

**AGENCY:** Office of Policy Development and Research, Chief Data Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with comments paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** Comments Due Date: [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and can be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street, SW, Room 8210, Washington, DC 20410-5000 or email at [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov).

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street, SW, Room 8210, Washington, DC 20410; e-mail Colette Pollard at [PaperworkReductionActOffice@hud.gov](mailto:PaperworkReductionActOffice@hud.gov) or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to

receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 12, 2022 at 87 FR 41344.

## **A. Overview of Information Collection**

**Title of Information Collection:** Operating Fund Energy Incentives: Energy Performance Contracting Program, Rate Reduction Incentive.

**OMB Approval Number:** Pending.

**Type of Request:** New Collection.

**Form Number:** HUD-52722, HUD-52723, EPC Savings Calculator, Resident Paid Utility Worksheet.

**Description of the need for the information and proposed use:** Section 9(e)(2)(C) of the United States Housing Act of 1937 (1937 Act) authorizes Public Housing Agencies (PHAs) to “receive the full financial benefit from any reduction in the cost of utilities or waste management resulting from any contract with a third party to undertake energy conservation improvements in one or more of its public housing projects.” Energy Conservation Improvements or often referred to as Energy Conservation Measures (ECMs) include improvements to other utilities such as water and gas. Under 24 CFR 990.185, PHAs may qualify for conservation incentives when undertaking ECMs that are financed by an entity other than HUD.

This third-party financing of energy consumption measures is termed an Energy Performance Contract (EPC). A PHA uses a loan from a third-party to finance initial improvements in PHA infrastructure that will reduce a PHA's energy and/or water consumption through implementation of ECMs and/or renewable energy. HUD will continue to provide the PHA operating subsidy based on a PHA's energy consumption before the improvements were made. The PHA will then use the energy savings to pay for the debt service on the loan.

There are three energy consumption incentives that are available to a PHA:

1. The Frozen Rolling Base (24 CFR 990.185(a)(1)) -where HUD freezes the PHA's pre-EPC Rolling Base Consumption Level (RBCL) following the installation of ECMs so that the PHA can retain the savings from the decreased energy and/or water consumption for the term of the contract.
2. The Add-on Subsidy - an Additional Operating Subsidy (or "add-on") is an increase in total operating subsidy eligibility provided by HUD as a conservation incentive, as described in 24 CFR 990.185(a)(3). The additional subsidy is for amortization of the loan of the EPC and other direct costs related to the conservation project during the term of the contract.
3. The Resident-Paid Utility incentive (24 CFR 990.185(a)(2)). PHAs undertaking energy and/or water conservation measures that are financed by an entity other than HUD may include resident-paid utilities under the consumption reduction incentive. This incentive provides for PHAs to review and update all utility allowances to ascertain that residents are receiving the proper allowances before energy savings measures are begun; the PHA makes future calculations of rental income for purposes of the calculation of operating subsidy eligibility based on these baseline allowances. In effect, HUD will freeze the baseline allowances for the duration of the contract. This approach allows a PHA to exclude from its Operating Fund rental income calculations any rents received that are a result of decreased utility allowances resulting from decreased consumption.

In addition to consumption incentives, PHAs are also eligible for a Rate Reduction Incentive. 24 CFR 990.185(b) also allows PHAs to retain 50% of any savings attributable to taking specific actions to reduce the cost of their energy consumption, such as well-head purchase of natural gas, administrative appeals, or contract negotiation with a utility company. RRI's executed at the same time as an EPC are eligible to retain up to 100 percent of the savings (rather than 50 percent of the savings with the RRI alone) during the EPC repayment period when the EPC and RRI impact the same AMP and utility.

The lower rate cannot be a result of factors that do not require the PHA to take an action and/or are beyond a PHA's control including, but not limited to, market changes, legislative changes, rate changes for all customers, or consuming energy at a different time of day.

Applicants for an EPC program submit the following documents at the time of submission:

- A letter applying for an EPC incentive, identifying the project location, any PHA units that would fall under the EPC contract, the type of incentive that a PHA is applying for and whether the project will be managed by the PHA, or using an Energy Services Company (ESCO) to manage the EPC on their behalf;
- Completed Investment Grade Energy Audit to the ASHRAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers) standard that supports the proposal;
- The Request for Proposals (RFP) used to solicit proposals from third-party lenders or ESCOs;
- A Cost Summary Sheet showing ECMs by project, funding type and Measurement and Verification (M&V) type;
- Detailed Utility Baseline Data summary sheet showing the RBCL and any adjustments to the data;

- Copies of the HUD 52722 and 52723 forms<sup>1</sup> by Asset Management Project (AMP) for each year of the required rolling base years;
- Copy of the most recent HUD 52722 and 52723 forms by AMP; and
- A detailed Cash Flow Summary, showing:
  - That the energy savings are sufficient to cover the project costs including replacement costs;
  - That 75% of the annual energy savings are utilized for payment of the debt for the contract; and
  - Any Bureau of Labor and Statistics historical documentation supporting any utility rate escalations.

Applicants for Resident Paid Utility Allowances submit the following:

- Copies of existing utility allowances with supportive documentation;
- Copies of the Pre-EPC utility allowances with supportive documentation;
- Copies of projected post-EPC utility allowances will be with supportive documentation;
- A copy of the Energy Services Agreement contract between the PHA and their third-party lender/ESCO Energy Services Agreement (ESA);
- A certification that the PHA has performed a cost analysis per 2 CFR part 200, and that the costs associated with the EPC are reasonable;
- A repayment certification that the PHA will pay for any debt using cost savings from implementing ECMs; and

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<sup>1</sup> The burden for these forms has been approved under OMB Control No. 2577-0029. As a result, the burden from these forms is not included in the current collection.

- A letter from the PHA's legal counsel that states that the ESA complies with State and Local laws and that the legal interests of the Authority are fairly represented in the ESA.

Applications for the Rate Reduction Incentive (RRI) must include the following information:

- PHA Name and PHA code;
- Asset Management Project (AMP) number for each AMP included in the proposed RRI;
- A brief description of the action the PHA undertook to reduce the utility rate and supporting documentation;
- An explanation of how the PHA will calculate savings and anticipated savings; and
- Identification of the incentive the PHA will claim, whether it is 50 percent or 100 percent of the actual savings.

HUD uses collected information to determine whether applications meet eligibility requirements and application submission requirements. Applicants provide information about the proposed contract to enable HUD to evaluate the applicant's response to the criteria for rating the application and approving or disproving the contract.

Annual EPC Measurement and Verification and savings calculation information collected allows HUD to audit program performance accurately. The quality of reported data is critical for ensuring an accurate distribution of the Operating Fund subsidy appropriation. The information collected will allow HUD to accurately audit the program. For the EPC program, Measurement and Verification data will be submitted by the PHA annually in a format of their choice. The report must contain the actual usage amount of each utility under the EPC, the actual unit of measure, the consumption savings, and the cost savings. The PHAs will also be required to submit their consumption data using a standardized Excel Spreadsheet through the Operating Fund Web Portal, the Energy Savings Calculator. This Calculator is used to ensure

the accuracy of the EPC incentives being claimed by the PHA in their annual Operating Subsidy submission.

For the RRI program, PHAs must annually submit documentation on energy cost savings attributed to the reduction in the rate. This data is submitted on an Asset Management Project (AMP basis). For the RRI program, PHAs will submit their data via email using the format of their choice.

Respondents: Public Housing Agencies (PHAs).

<i>Type of Submission/ Information Collection</i>	<i>Number of Respondents</i>	<i>Frequency of Submissions</i>	<i>Total Responses</i>	<i>Estimate Average Time (Hours)</i>	<i>Estimate Annual Burden (Hours)</i>	<i>Hourly Cost</i>	<i>Total Annual Cost</i>
EPC Application and supporting documentation	10	1	10	560	5,600	\$125	\$700,000
EPC Measurement and Verification Report and Energy Savings	200	1	200	20	4,000	\$125	\$500,000
RRI Application and supporting documentation	30	1	30	2	60	\$125	\$7,500
RRI savings calculation	60	1	60	10	600	\$125	\$75,000
<b>Totals</b>	<b>300</b>		<b>300</b>		<b>10,260</b>		<b>\$1,282,500</b>

## **B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A regarding the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.
- (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

**Colette Pollard,**  
*Department Record Management Officer,*  
*Officer of Policy Development and Research,*  
*Chief Data Officer.*

**Billing Code: 4210-67**

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